

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

WILLIAM JACKSON,

Plaintiff,

v.

DOMINIQUE FOWLKES AND JON DOES
1-25,

Defendants.

HONORABLE KAREN M. WILLIAMS

Civil Action
No. 1:19-CV-18755-KMW-MJS

**OPINION AND ORDER TO DISMISS
FOR FAILURE TO SERVE**

This matter comes before the Court *sua sponte*. Plaintiff William Jackson (“Plaintiff”) filed his Amended Complaint on April 7, 2022, against Dominique Fowlkes (“Defendant”) (ECF No. 38). However, Plaintiff had not served Defendant with the summons and Amended Complaint within 90 days, as required by Rule 4(m) of the Federal Rules of Civil Procedure.

On July 26, 2022, the Honorable Magistrate Judge Matthew J. Skahill held a telephone conference with Plaintiff’s counsel and, for good cause shown, extended the date of service until August 5, 2022 (ECF No. 41). Plaintiff did not effectuate service within the enlarged time (ECF No. 42).

On August 10, 2022, Judge Skahill held a second conference with Plaintiff’s counsel and thereafter issued an Order further extending the date for service until August 24, 2022 (ECF No. 43).¹ Again, Plaintiff did not effectuate service within the enlarged time (ECF No. 44).

On September 6, 2022, Judge Skahill once more issued an Order granting a third

¹ Judge Skahill’s August 5, 2022 Order advised Plaintiff: “If service is not made by [August 24, 2022], or alternative steps have not otherwise been taken by that date, Plaintiff is notified, as provided in Fed. R. Civ. P. 4(m), that this action is subject to dismissal without prejudice.” (ECF No. 43).

extension for service until September 16, 2022 (ECF No. 45). The Order provided:

Based on the update received from counsel via the Aug. 24, 2022 letter [], the Court will extend the date for service until September 16, 2022. If service is not made by that date, or alternative steps have not otherwise been taken by that date, Plaintiff is notified, as provided in Fed. R. Civ. P. 4(m), that this action is subject to dismissal without prejudice.

Id. Again, Plaintiff did not effectuate service within the enlarged time.²

Rule 4(m) of the Federal Rules of Civil Procedure provides as follows:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

As of the date of this Order, 173 days have elapsed since the filing of Plaintiff's Amended Complaint. Despite three separate extensions of time (ECF Nos. 41, 43, 45), as well as notice that his Amended Complaint was at risk of dismissal under Rule 4(m) for failure to serve (ECF Nos. 43, 45), Plaintiff has not yet served Defendant.

IT IS THEREFORE ORDERED this **27th** day of **September 2022** that Plaintiff's Amended Complaint (ECF No. 38) is **DISMISSED WITHOUT PREJUDICE**.

/s/ Karen M. Williams

KAREN M. WILLIAMS
United States District Judge

² On September 16, 2022, Plaintiff's counsel submitted a letter to the Court in which he advised that he was unable to serve defendant and acknowledge that the Amended Complaint must be dismissed (ECF No. 46).